

1
2
3
4
5
6
7
8
9
10
11
12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
ELEAZAR CONTRERAS-DIAZ and
CHAVEZ-ORNELAS,
Defendant

Case No. 5:11-cr-00549-EJD
Case No. 5:11-cr-00551-EJD
Case No. 5:11-cr-00705-EJD

**ORDER DENYING DEFENDANT'S
MOTION TO REQUEST CREDIT TIME**

Re: Dkt. No. 72

On April 25, 2016, the court received a document entitled “Motion to Request Credit Time” from Defendant Eleazar Contreras-Diaz, also known as Juan Chavez-Diaz (“Defendant”), who is presently serving a 78-month federal sentence. As the court understands it, Defendant requests assistance in obtaining credit for time served prior to sentencing.

This court is unable to provide Defendant with relief or assistance on this issue. Indeed, after a defendant is sentenced, it is the Bureau of Prisons (“BOP”) - not the court - that calculates the applicable release date and any entitlement to sentencing credit. Jonah R. v. Carmona, 446 F.3d 1000, 1002 (9th Cir. 2006) (“The Federal Bureau of Prisons . . . calculates sentences for persons . . . remanded to its custody.”); Zavala v. Ives, 785 F.3d 367, 370 n.3 (9th Cir. 2015) (“BOP, rather than the sentencing court, calculates the defendant’s entitlement to sentencing credit under [18 U.S.C.] § 3585(b) in the first instance.”). Furthermore, this court cannot entertain claims of error in BOP’s calculation or in its application of time credits. Challenges to the execution of a sentence are properly raised through a petition under 28 U.S.C. § 2241 and must be brought in the district court where the defendant is confined. See Zavala, 785 F.3d at 370 n.3 (“A defendant may then challenge BOP’s calculation - in other words, the execution of the sentence -

1 by filing a petition for a writ of habeas corpus under 28 U.S.C. § 2241.”); Muth v. Fondren, 676
2 F.3d 815, 818 (9th Cir. 2012) (“§ 2241 petitions must be filed in the district where the petitioner is
3 confined . . .”). Since Defendant’s documents indicate that he is currently incarcerated in Post,
4 Texas, such a request must be made to the district court encompassing that area.

5 Accordingly, Defendant’s request is DENIED.

6

7 **IT IS SO ORDERED.**

8 Dated: May 3, 2016

9 
10 EDWARD J. DAVILA
United States District Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28